BS

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,170	03/29/2000	Nosakhare D. Omoigui	MS1-339US	7563

22801 7590 07/08/2004

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

EXAMINER	
KOENIG, ANDREW Y	
ART UNIT	**PAPER NUMBER**
2611	7

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/539,170	OMOIGUI, NOSAKHARE D.	
	Examiner	Art Unit	
	Andrew Y Koenig	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) *19-26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18 and 27-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2-4, 6*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-18, and 27-33, drawn to client switching streams received from a server, classified in class 725, subclass 93.

II. Claims 19-26, drawn to altering the playback speed of streams at the client device from streams originating from a server, classified in class 725, subclass 100.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are patently distinct inventions for performing the same function, but placing the functions at different locations within the system. Specifically, invention I would not be present in the system of invention II and vice versa.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention: see groups I (as shown in figure 4) and II (as shown in figure 3) above.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Allan Sponseller on 24 June 2004 a provisional election was made with traverse to prosecute the invention of group I, claims 1-18 and 27-33. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-26 are withdrawn from further

consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,606,359 to Youden et al. (Youden).

Regarding claims 14 and 18, Youden teaches a Video-On-Demand (VOD) system where the server performs the VCR-like functions of fast-forward, fast reverse, play, and pause. The client can send requests and control the playback and how the server streams the data to the user. Accordingly, Youden teaches sending data from the server to the clients through a switch (80) to the distribution network (20), see fig. 1-3, col. 5, ll. 45-56). Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6). In light of the applicant's specification, the applicant discloses in the background that changing speeds are not always seamless and that there may be breaks in the data where the user is

presented with either a "paused" view of the streaming data or no data at all until the system is able to render the stream at the requested speed (see applicant's specification: pg. 2-3, ll. 19-2). Youden teaches after receiving a request to change speeds to find the closest position of the video and switches streams (col. 14, ll. 38-44). Youden recognizes that data should be sent to the user with a minimum delay (col. 3, ll. 10-17).

Regarding claim 15, Youden teaches transmitting the media via the network (col. 5, ll. 2-15).

Regarding claim 16, Youden teaches streaming programs, which is a composite stream including audio and video (col. 6-7, ll. 66-1).

Regarding claim 17, Youden teaches the server switching streams, clearly the client would receive a single stream and view the single stream, which reads on rendering content at the first speed if the content corresponds to a first speed, otherwise rendering the second speed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,606,359 to Youden et al. (Youden) in view of U.S. Patent 6,614,843 to Gordon et al. (Gordon).

Regarding claim 1, Youden teaches a Video-On-Demand (VOD) system where the server performs the VCR-like functions of fast-forward, fast reverse, play, and pause. The client can send requests and control the playback and how the server streams the data to the user. Accordingly, Youden teaches sending data from the server to the clients through a switch (80) to the distribution network (20), see fig. 1-3. col. 5, ll. 45-56). Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6). In light of the applicant's specification, the applicant discloses in the background that changing speeds are not always seamless and that there may be breaks in the data where the user is presented with either a "paused" view of the streaming data or no data at all until the system is able to render the stream at the requested speed (see applicant's specification: pg. 2-3, ll. 19-2). Youden teaches after receiving a request to change speeds to find the closest position of the video and switches streams (col. 14, ll. 38-44). Youden recognizes that data should be sent to the user with a minimum delay (col. 3, ll. 10-17). However, Youden fails to explicitly disclose switching without a user-detectable break. Gordon teaches seamless switching between streams (col. 25, ll. 37-47, col. 26, ll. 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

to modify Youden by seamlessly switching between streams as taught by Gordon in order to prevent a blank screen (Gordon: col. 25, ll. 42-44) thereby reducing the time the user has to wait for more information.

Regarding claim 2, Youden teaches streaming programs, which is a composite stream including audio and video (col. 6-7, ll. 66-1).

Regarding claim 3, Youden teaches the second stream being a fast-forward stream (col. 14, ll. 39-47), which equates to a second playback speed faster than the first playback speed.

Regarding claim 4, Youden teaches receiving the user selection at the real time controller identifying a fast forward stream thereby causing the server to change streams (col. 3, ll. 42-51, col. 3-4, ll. 65-11, col. 14, ll. 39-47).

Regarding claim 5, Youden teaches a "fast prefetch on startup" to insure that each user will have enough data in their assigned FIFO memory buffers to insure uninterrupted transmission for a period of some seconds (col. 11, ll. 14-20).

Regarding claim 6, Youden teaches the "real time controller also controls ongoing interaction with a given user, such as FF and FR commands," see col. 5., ll. 63-65), which renders the streams of data, but is silent on explicitly disclosing immediately. Youden further teaches that the real time controller is running a real time operating system which inherently would process the data immediately as claimed by definition of a real time operating system.

Regarding claims 10 and 13, Youden teaches a Video-On-Demand (VOD) system where the server performs the VCR-like functions of fast-forward, fast

reverse, play, and pause. Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6). In light of the applicant's specification, the applicant discloses in the background that changing speeds are not always seamless and that there may be breaks in the data where the user is presented with either a "paused" view of the streaming data or no data at all until the system is able to render the stream at the requested speed (see applicant's specification: pg. 2-3, ll. 19-2). Youden teaches after receiving a request to change speeds to find the closest position of the video and switches streams (col. 14, ll. 38-44). Youden recognizes that data should be sent to the user with a minimum delay (col. 3, ll. 10-17). However, Youden fails to explicitly disclose switching without a user-detectable break. Gordon teaches seamless switching between streams (col. 25, ll. 37-47, col. 26, ll. 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by seamlessly switching between streams as taught by Gordon in order to prevent a blank screen (Gordon: col. 25, ll. 42-44) thereby reducing the time the user has to wait for more information.

Regarding claim 11, Youden teaches streaming programs, which is a composite stream including audio and video (col. 6-7, ll. 66-1).

Regarding claim 12, Youden teaches FIFO memory buffers for each user for transmission (col. 7, ll. 6-25), clearly when Youden changes streams, the client merely decodes the incoming data, which renders the first stream until the

second stream is receiver. Further, Youden teaches switching to the second stream (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6).

9. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,606,359 to Youden et al. (Youden) and U.S. Patent 6,614,843 to Gordon et al. (Gordon) in view of U.S. Patent 5,699,474 to Suzuki et al. (Suzuki).

Regarding claim 7, Youden is silent on each of the plurality of data packets includes a tag identifying whether it was transferred for a first or second playback speed. Suzuki teaches an FF_sequence (see fig. 13) flag, which is identifies the stream to be fast forward (e.g. high speed reproduction) or normal speed reproduction (col. 16,ll. 49-62). Accordingly, Suzuki teaches a tag identifying the playback speed of the signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by using a tag to identify the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Regarding claim 8, Youden is silent on rendering based on the tags. Suzuki teaches the tag identifying high speed reproduction which renders the signal based on the tag. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by using a tag to render the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Regarding claim 9, Youden is silent on performing time-scale modification in accordance by the tags. Suzuki teaches performing the time-scale modification in accordance by the sequence header (col. 17, ll. 24-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by performing a time-scale modification in accordance by the tags as taught by Suzuki in order to display the data to the user.

10. Claims 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,606,359 to Youden et al. (Youden) in view of U.S. Patent 5,699,474 to Suzuki et al. (Suzuki).

Regarding claim 27, Youden teaches a Video-On-Demand (VOD) system where the server performs the VCR-like functions of fast-forward, fast reverse, play, and pause. The client can send requests and control the playback and how the server streams the data to the user. Accordingly, Youden teaches sending data from the server (10, 40) to the clients (30) through a switch (80) to the distribution network (20), see fig. 1-3. col. 5, ll. 45-56). Youden teaches the user requesting a new speed and transmitting the request to the real time controller (col. 10-11, ll. 66-3). Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6). Youden is silent on tag portions indicating the speed of the signal. Suzuki teaches an FF_sequence (see fig. 13) flag, which is

identifies the stream to be fast forward (e.g. high speed reproduction) or normal speed reproduction (col. 16,ll. 49-62). Accordingly, Suzuki teaches a tag identifying the playback speed of the signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by using a tag to identify the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Regarding claim 28, Youden teaches a plurality of distribution networks (col. 5, ll. 2-11), but is silent on using the Internet. Official Notice is taken that streaming data over the Internet is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by streaming data over the Internet in order to provide data to various devices on a plurality of networks thereby enabling the system to be used in a many environments and increasing accessibility to the users.

Regarding claim 29, Youden teaches streaming programs, which is a composite stream including audio and video (col. 6-7, ll. 66-1).

Regarding claim 30, Youden is silent on each of the plurality of data packets includes a tag identifying whether it was transferred for a first or second playback speed. Suzuki teaches an FF_sequence (see fig. 13) flag, which is identifies the stream to be fast forward (e.g. high speed reproduction) or normal speed reproduction (col. 16,ll. 49-62). Accordingly, Suzuki teaches a tag identifying the playback speed of the signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify Youden by using a tag to identify the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Regarding claim 31, Youden teaches sending the stream of video at a first playback speed (col. 10, ll. 34-39) and switching the stream to a different playback speed, in this case fast-forward (FF), fast-rewind (FR), or pause, (col. 11-12, ll. 66-3, col. 14-15, ll. 39-6), which equates to performing time-scale modification prior to streaming the media to the client.

Regarding claim 32, Youden is silent on performing time-scale modification in accordance by the tags. Suzuki teaches performing the time-scale modification in accordance by the sequence header (col. 17, ll. 24-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by performing a time-scale modification in accordance by the tags as taught by Suzuki in order to display the data to the user.

Regarding claim 33, Youden is silent on rendering based on the tags. Suzuki teaches the tag identifying high speed reproduction which renders the signal based on the tag. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Youden by using a tag to render the reproduction speed as taught by Suzuki in order to control the decoder of the device for displaying the information to the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ayk

VIVEK SRIVASTAVA
PRIMARY EXAMINER